

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

DATE OF MEETING: Thursday, March 14, 2019
TIME OF MEETING: 4:00 p.m.
PLACE OF MEETING: Commission Chambers, First Floor, Muskegon City Hall

AGENDA

- I. Roll Call
- II. Approval of Minutes from the regular meeting of February 14, 2019.
- III. Public Hearings
 - a. Hearing, Case 2019-04: Request to rezone the properties at 971 & 975 Washington Ave from R-2, Single Family Medium Density Residential to Form Based Code, Neighborhood Edge, by Brett Gilbert.
 - b. Hearing, Case 2019-05: Staff initiated request to amend the zoning ordinance to allow research and development as a permitted use in the Downtown and Mainstreet context areas of the Form Based Code.
 - c. Hearing, Case 2019-06: Staff initiated request to amend the Single Family Residential section of the zoning ordinance to clarify that short and long term rentals are not prohibited uses.
 - d. Hearing, Case 2019-07: Staff initiated request to adopt the amended Master Plan.
- IV. New Business
- V. Old Business
- VI. Other
 - a. Master Plan Update – Neighborhood Meeting Schedule.
- VII. Adjourn

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CITY COMMISSION AND ANY OF ITS COMMITTEES OR SUBCOMMITTEES

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Ann Meisch, City Clerk
933 Terrace Street

**CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES**

February 14, 2019

Chairperson T. Michalski called the meeting to order at 4:04 p.m. and roll was taken.

MEMBERS PRESENT: T. Michalski, F. Peterson, S. Gawron, B. Larson, M. Hovey-Wright, E. Hood, J. Doyle

MEMBERS ABSENT: J. Montgomery-Keast, excused; B. Mazade, excused

STAFF PRESENT: M. Franzak, H. Mitchell

OTHERS PRESENT: J. VanFossen, Harbor West LLC (Mt. Pleasant, MI); D. DeHaan, 3299 Hudson Trails; T. DeMumbrum, Westshore Consulting; W. VandenBosch, Westshore Consulting; L. Swenson, 1184 7th; D. Alexander, Downtown Muskegon Now; D. Kirksey, 1204 W. Western; T. Fricano, 1050 W. Western; D. Dusendang, 3265 Walker Ave.; L. Spataro, 1567 6th; G. Post, 272 W. Clay;

APPROVAL OF MINUTES

A motion to approve the Minutes of the regular Planning Commission meeting of January 10, 2019 was made by B. Larson, supported by M. Hovey-Wright and unanimously approved.

PUBLIC HEARINGS

Hearing, Case 2019-02: Request for preliminary and final Planned Unit Development (PUD) approval for a mixed-use development at 920, 1000, 1010, 1050 and 1060 W Western Ave. M. Franzak presented the staff report. The proposed development includes the usage of five parcels on W Western Ave: 920 (City Marina), 1000 (Former City-owned parking lot), 1010 (Bike Path), 1050 (Fricano's), and 1060 (Bike Path). The zoning of these parcels are B-2, Convenience & Comparison Business; I-2, General Industrial; LR, Lakefront Recreation and Form Based Code, Neighborhood Edge. Altogether, the development includes 14.48 acres of land. The PUD requirements for B-2 Districts state: The intent of Planned Unit Developments in the B-2 Convenience and Comparison Business Districts is to allow mixed land uses which are compatible to each other, while prohibiting nonresidential uses which would not be compatible or harmonious with residential dwellings. The PUD requirements for I-2 Districts state: The intent of Planned Unit Developments in the I-2 General Industrial District is to allow mixed land uses, which are compatible to each other. The PUD requirements for LR Districts state: The intent of Planned Unit Developments in the LR Lakefront Recreation Districts is to allow mixed land uses, which are compatible to each other, while prohibiting nonresidential uses which would not be compatible or harmonious with lakefront recreation activities, or residential dwellings. The Form Based Code section of the zoning ordinance allows Specific Development Plans, intended to allow applicants flexibility to address market conditions and opportunities, including the master planning of large lots exceeding the maximum block dimensions as outlined in Section 2004, as well as the consolidation of multiple properties to create predictable and market responsive development for the area. The project calls for 55 single-family detached houses. Phase 1 will include 34 units and Phase 2 will include an additional 21 units. The residential units are 26 feet wide and setback 10 feet from each other. Units 1 and 10 are a little wider and shaped differently than the rest. Residential units will consist of the "Schooner" and "Clipper" models, as depicted in the handouts. These will vary between 1, 1.5 and 2.5 story homes. Every home will have a garage. There are six units that will have an extra detached garage for extra storage. Basements are not possible in this development due to groundwater levels. Other

improvements to the land include marina upgrades, a new clubhouse, improvements to the greenspace north of Fricano's, relocation of Fricano's lower level parking, bike path relocation, Park improvements and rerouting of traffic to the boat launch. The current road between the Marina entrance and the boat launch would be removed and a new road would be located to the west of Fricano's Place. The new road will provide access to the boat launch. The boat launch area will lose a few parking spaces just to the east of the boat launch. These will be replaced along the new road leading into the boat launch. All internal roads will be private. The roads leading to the marina and boat launch will be public within dedicated easements. No gates are proposed other than to keep the existing one into the marina. The current bike path would be sold to the developer and used as patio space for the residential units. The bike path will be relocated just to the north. The chain link fence at the marina would be removed and replaced with a 4-foot tall wrought iron fence. There are 50 parking spaces located near the clubhouse. These will serve the clubhouse and as overflow parking for residences. Other overflow lots for residences will include the two parking lots for Fricano's. While traditional sidewalks are not incorporated, there are several concrete pathways that connect the publicly-accessible bike path. The plan exceeds the ordinance requirements for open public space and landscaping. Any approvals will be contingent upon issuance of a storm water permit from the Drain Commissioner. Stormwater improvements should eliminate the flooding that occurs near the current bike path. The applicant will be proposing a temporary holding and treatment process that will leach into the lake. Plans are still being reviewed by other City departments. Comments will be made available at the meeting. Phase 1 will include all improvements except for the residential units (and associated internal road) depicted in Phase 2. Staff recommends approval of the preliminary and final PUD.

B. Larson asked what the relationship was between the developer and the marina and if it would remain a public marina. M. Franzak stated that it would remain a public marina, but staff is looking at having a management team for the marina. B. Larson asked if the improvements the developer makes would benefit the marina. F. Peterson stated that there were some agreements between the City and the developer when it came to shared amenities. T. Michalski asked about any access the development would have regarding access to boats and used the example if everyone that would own one of the units had a boat; would there be enough room to accommodate them as well as those currently with boat slips at the marina. F. Peterson stated that those that currently have boat slips would keep their slips and should the current slip owners determine they no longer want to keep the one at the marina; then the condo owners would have first right of refusal. There is a separate marina improvement plan being developed that changes the way the marina operates and changes the boat sizes but not necessarily increasing the number of boat slips. T. Michalski asked if the bike path was to be removed or just moved. F. Peterson stated that the bike path would be moved closer to the water. M. Hovey-Wright asked who would be paying to move the bike path. F. Peterson stated that there is a cost share agreement that is already in place. He explained some of the funding sources that may be used.

J. VanFossen gave a brief history of the development company. They had met with the City about two years prior discussing the possibility of purchasing the parcel as well as the research and history and environmental issues of the site. Since that time this had gone from developing on about three acres to seven acres due to Mr. Fricano, adjacent property owner, and his willingness to become a partner in this development. This allowed for the development of the condos to increase. He is thankful for the City and City staff for their enthusiasm and help with walking through everything with the DEQ, property easements, etc. over the past couple of years which helped bring this forward as well as Mr. Fricano who welcomed the project and his willingness to partner with the project which helped make the project grow. D. DeHaan has become a partner in Harbor West and has been working on this for nine to ten months now. He went over the narrative that was provided in their proposal and how the Brownfield is underutilized, and this is an area that would work well with this. He went over the proposed design and how much fill is required and the zero-step design. He went over the reasons for the designs of the structures, etc. The proposed design would work demographically and not limit the families that might reside there. The price ranges are roughly high \$300,000 to low \$600,000 which includes landscaping. This will bring 55 families that will be able to enjoy the amenities of the downtown area. Their development will have low maintenance. The plan will be completed in two phases instead of the original three. He went over the different designs that are proposed for the different units. They do have some that have an interest already for purchase. They could not commit until they had the approval for the development. B. Larson had asked where the children that might live there would attend school and if the applicant had discussed the development with the schools. T.

Michalski added that the schools would be happy to accept any kids. D. DeHaan stated they had not discussed this with the schools. Due to the style of the development it would attract those that generally do not have children living at home. B. Larson and T. Michalski encouraged the developer speak with the schools, so they are aware of the development as well. B. Larson asked if the developer had any concerns with the fact their development would be looking at the back of the former Shaw Walker building and how it looks. D. DeHaan stated they had no concerns about the look of it. T. DeMumbrum and W. VandenBosch from Westshore Consulting discussed the catch basin design and answered questions in regard to the grade, water retention and runoff. T. DeMumbrum stated that the Drain Commissioner would also have to approve everything that has to do with runoff and retention.

L. Swenson had given the board members a flier regarding Adventure Sports from the Boys & Girls Club of the Muskegon Lakeshore showing different programs for kids and water recreation. She gave an overview of the program and how there are many kids that live in Muskegon County that had never been in the water. The program provided kids with different water sport lessons and how water safety. She was glad to know that the water area at the marina would remain open to the public. D. Alexander stated he and L. Swenson have been in conversation in how to get more children to the water. He spoke favorably on the proposed development and how the downtown has been getting developed. M. Hovey-Wright confirmed with the developer that the proposed structures would be condos due to the low maintenance that is proposed. D. Kirksey was glad to hear that the City would still own the marina and he had discussed the Muskegon Lake Watershed Group that he is a member of and the important things to consider when it comes to what can happen to the Great Lakes when it comes to development and proper water runoff. He asked about the fence being relocated by the bike trail so the marina would still have security. He wanted to make sure it wasn't being removed. F. Peterson confirmed it was only being moved and not removed. D. Kirksey was concerned that the catch basin swirl that was being discussed regarding the development and the storm water. There is a lot of trash that is caught in the area already that ends up in the lake. T. Fricano stated that he is 100% in support of the project and felt it had been well thought out. This is a DeHaan home project and he has a website and he is in favor of the request and he is in favor and happy to be a part of this project.

A motion to close the public hearing was made by B. Larson, supported by E. Hood and unanimously approved.

A motion that the request for preliminary Planned Unit Development (PUD) approval for a mixed-use development at 920, 1000, 1010, 1050 and 1060 W Western Ave be approved was made by B. Larson, supported by J. Doyle, and unanimously approved.

A motion that the request for final Planned Unit Development (PUD) approval for a mixed-use development at 920, 1000, 1010, 1050 and 1060 W Western Ave be recommended to the City Commission for approval with the following conditions: a) The bike path be elevated with culverts to avoid flooding. b) A sidewalk shall be installed along the new road that leads to the boat launch. c) The bike path shall be constructed to AASHTO standards for non-motorized trails. d) The pavement between homes on units 8-26 and 40-48 should be reduced by at least half and replaced with more greenspace and landscaping. e) The public roads shall have a minimum of 4" asphalt over 8" of gravel and the interior private roads shall have a minimum of 3" asphalt over 6" of gravel. f) Spacing between fire hydrants shall not exceed 500 feet. g) All approvals shall be contingent upon the issuance of a stormwater permits from the Drain Commissioner's Office; was made by M. Hovey-Wright, supported by B. Larson, and unanimously approved.

Hearing, Case 2019-03: Request for several departures from the Form Based Code section of the zoning ordinance for the proposed residential development at 241 & 245 W Western Ave. M. Franzak present the staff report. The two parcels are zoned FBC, Mainstreet. Both lots combined have 241 feet of frontage along Western Ave and have a depth of 60 feet. New 16 feet wide by 60 feet deep parcels will be created. This will create a density of 45 units per acre. Zero lot line setbacks in the rear will allow garage access from the public parking lot in the back. The proposed rowhouse development meets the form base code, except for the following regulations, which will need to receive departures: Two story buildings are required, this development proposes three stores. Staff prefers the three-story development because of its location on Western Ave. Units are required to be a

minimum of 18 feet, this development proposes 16 feet widths. Staff finds this acceptable because of the space created from the additional floor. The code limits the maximum number of attached rowhouses to eight, this development proposes 15 attached units. Staff prefers this number of units because of the amount of road frontage on Western Ave, which will allow for more density. The development does not meet all of the requirements of one the two choices for frontages, including “lightwell” or “stoop.” It meets all of the requirements of the stoop option, except the stoop will only be raised 5 inches off of grade, rather than the required 18 inches. Please see the regulations for these on the following pages. The number of windows facing Jefferson St does not meet the minimum requirement of 10% of the upper story’s facade. This requirement falls just short. Staff recommends approval of the departures.

D. Dusendang gave an overview of the project. L. Spataro is in favor of the higher density and attraction for different income levels. He had concerns about the limited retail space downtown and would like to make sure that there is more space available for this. The higher density creates more people moving downtown so there is a need for the retail. T. Michalski agreed there is a need for more retail space. G. Post stated that he since he also resides in the area and had received a letter regarding the request for the departures from the form-based code; the letter didn’t specify what those departures were and now that he has heard what they are and what they entail; he is fine with the request. He would like to see that the need for more retail space not be forgotten as more development happens in the downtown area. D. Alexander stated that he has spoken and is working with retailers. There is a need for more affordable retail space downtown as the businesses outgrow the chalets; they are unable to find the middle area for retail space downtown. The next level of retail space is costlier and there needs to be a middle level of retail space in the downtown area. M. Franzak showed in the form-based code where the development is outside the area where the retail space is required. He showed the members where the locations are that the retail is required for development.

A motion to close the public hearing was made by B. Larson, supported by J. Doyle and unanimously approved.

A motion that departures from the Form Based Code section of the zoning ordinance, as proposed, for the residential development at 241 & 245 W Western Ave be approved and that staff gives final approval on the site plan with any outstanding issues, was made by J. Doyle, supported by S. Gawron and unanimously approved.

NEW BUSINESS

None.

OLD BUSINESS

None.

OTHER

None.

There being no further business, the meeting was adjourned at 5:24 p.m.

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STAFF REPORT

March 14, 2019

Hearing, Case 2019-04: Request to rezone the properties at 971 & 975 Washington Ave from R-2, Single Family Medium Density Residential to Form Based Code, Neighborhood Edge, by Brett Gilbert.

SUMMARY

1. Both properties are owned by Brett Gilbert, owner of Fatty Lumpkins at 971 Washington Ave. This restaurant was approved as a Special Land Use by the Planning Commission in 2009. Mr Gilbert has since bought the commercial property to the west at 975 Washington Ave and would like to utilize the existing building as an extension of Fatty Lumpkins. Rather than asking for another Special Land Use Permit for the new restaurant space, staff encouraged him to apply for a rezoning, which would allow for the restaurant without a Special Land Use Permit and would also make it easier to develop the properties if there are any future expansions.
2. Form Based Code, Neighborhood Edge is a common zoning designation for commercial properties in this area. Please see the zoning maps on the following page.
3. This zoning designation also allows for residential homes as well, in the event the restaurant moves to another location. Please see the zoning ordinance excerpt on Neighborhood Edge.
4. Both properties meet the minimum size (25' x 100') standards for Neighborhood Edge lots. Both lots are approximately 26' x 127'.

971 / 975 Washington Ave



Zoning Map



Form Based Code, Neighborhood Edge Properties



Aerial Map



STAFF RECOMMENDATION

Staff recommends approval of the rezonings.

DELIBERATION

I move that the request to rezone the properties at 971/975 Washington Ave be recommended to the City Commission for (approval/denial).

Hearing, Case 2019-05: Staff initiated request to amend the zoning ordinance to allow research and development as a permitted use in the Downtown and Mainstreet context areas of the Form Based Code.

SUMMARY

1. The Form Based Code allows for Research & Development in the Neighborhood Core Neighborhood Edge Context Areas, as long as they are in a mixed-use or flex building type.
2. Staff is proposing to allow Research & Development in the Downtown and Mainstreet Context Areas because of the low-impact on surrounding uses and possibility of attracting more businesses downtown.
3. Research & Development refers to the work a business conducts for the innovation, introduction and improvement of its products and procedures. It is a series of investigative activities to improve existing products and procedures or to lead to the development of new products and procedures.
4. This use is not nearly as intensive as industrial. Allowing them only in mixed-use and flex buildings would assure that they are a secondary use of a building and not the main tenant.

STAFF RECOMMENDATION

Staff recommends approval of the amendment.

DELIBERATION

I move that the request to amend the zoning ordinance to allow research and development as a permitted use in the Downtown and Mainstreet context areas in Mixed-Use and Flex building types be recommended to the City Commission for (approval/denial).

Hearing, Case 2019-06: Staff initiated request to amend the Single Family Residential section of the zoning ordinance to clarify that short- and long-term rentals are not prohibited uses.

SUMMARY

1. The City Commission recently passed a Short-Term Vacation Rental ordinance (enclosed).
2. Some citizens have complained that the City is not following the zoning ordinance because of Section 400.3.h.xiv(5). See Single Family Residential District attachment. They have claimed that rentals are breaking the rule of prohibiting “lodging services including but not limited to, a tourist home (defined as a bed and breakfast in the ordinance), motel or hotel.” However, this is located in the home occupation section, which also states “the business person operating the home occupation shall reside in the dwelling.” This is not the case with rentals, long or short term, so the City has never considered rentals as home occupations.
3. To clarify and eliminate any confusion, staff is suggesting to amend the ordinance as follows (**additions in bold**):

Home Occupations:

xiv. Activities specifically prohibited (but not limited to) include:

(5) A lodging service including but not limited to, a tourist home, motel or hotel. **This does not include short or long-term rental homes.**

STAFF RECOMMENDATION

Staff recommends approval of the amendment.

DELIBERATION

I move that the request to amend the Single Family Residential section of the zoning ordinance to clarify that short and long term rentals are not prohibited uses, be recommended to the City Commission for (approval/denial).

Hearing, Case 2019-07: Staff initiated request to adopt the amended Master Plan.

SUMMARY

1. The proposed Master Plan amendments include the addition of certain properties into the 2008 Downtown & Lakeshore Redevelopment Plan and the addition of the Imagine Muskegon Lake Plan.
2. The Planning Commission recommended the amendments in December of 2018. The City Commission approved the distribution of the plan to neighboring communities on January 8. The Planning Commission must now vote on the approval of the plan. The City Commission will also vote on the adoption of the plan.

DELIBERATION

I move that the request to adopt the revised Master Plan as presented be (approved/denied).



